

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

IN THE MATTER OF:

Industrial Motor Parts Corporation)	Complaint No. R4-2004-0129
5141 East Telegraph Road)	for
Los Angeles, California 90022)	Administrative Civil Liability

Industrial Motor Parts Corporation (IMP) IS HEREBY GIVEN NOTICE THAT:

1. IMP is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Los Angeles Region (Regional Board), may impose liability under §§ 13385 and 13399.33(a) of the California Water Code (CWC).
2. The IMP facility (facility), which is located at 5141 East Telephone Road in Los Angeles, California, is a used engine and engine parts remanufacturing facility which is required to file a Notice of Intent (NOI) to obtain coverage under General Permit No. CAS00001 (Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities) (Permit).
3. The facility was inspected on November 12, 2003 by Regional Board staff Mr. Alex Alimohammadi (staff). Staff observed used engine and engine parts remanufacturing at the facility. Pursuant to CWC § 13399.30, the Regional Board mailed a Notice to Comply (NTC) to IMP on January 8, 2004 by certified mail requesting IMP to file an appropriate NOI to obtain coverage under the Permit. The NTC was accepted by IMP's agent on January 13, 2004. IMP was required to submit a complete NOI form and an annual fee of \$830 on or before February 9, 2004. On May 7, 2004, The Regional Board mailed a Notice of Violation (NOV) to IMP by certified mail for failing to submit a complete NOI within 30 days of issuance of the NTC. The NOV was accepted by IMP or IMP's agent on May 10, 2004. The NOV warned IMP of the mandatory minimum penalties that are required to be assessed for failure to submit a complete NOI by the due date of June 7, 2004. IMP's facility was inspected for a second time on July 15, 2004 by Regional Board staff. Staff confirmed that IMP's facility is engaged in used engine and engine parts remanufacturing activities. During the inspection of IMP's facility on July 15, 2004, the staff clearly explained to IMP's representative, how to file a complete NOI and where to send the \$830 fee. In addition, staff thoroughly explained to IMP's representative, that the failure to submit a complete NOI was grounds for assessment of administrative civil liability. Staff informed IMP's representative, that upon completing and sending an NOI plus the annual fees, IMP was required to prepare a Storm Water Pollution Prevention

Plan (SWPPP). IMP failed to respond to the NTC and NOV and to date, the NOI has not been received. By not submitting the NOI, IMP violated provisions of the Federal Clean Water Act and the CWC.

4. CWC § 13376 requires any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of the Regional Board to file a report of discharge, and prohibits the discharge of pollutants except as authorized in waste discharge requirements issued by the Regional Board. CWC § 13385(a)(1) provides that any person violating CWC § 13376 shall be civilly liable, and CWC § 13385(c) provides that the Regional Board may administratively impose civil liability in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
5. CWC § 13399.30 requires any person, including a person subject to waste discharge requirements under section 1342(p) of Title 33 of the United States Code, that discharges, proposes to discharge, or is suspected by a regional board or the state board of discharging storm water associated with industrial activity that has not obtained coverage under an appropriate storm water NPDES permit, to submit to the regional board, within 30 days from the date on which a notice is sent by the regional board, the appropriate notice of intent to obtain coverage or a notice of non-applicability that specifies the basis for not needing to obtain coverage under an NPDES permit. CWC § 13399.33(a)(1) provides that the Regional Board shall impose a minimum penalty of not less than \$5,000 per year of noncompliance or fraction thereof on any person who fails to submit the required NOI in accordance with CWC § 13399.30.
6. Pursuant to CWC § 13399.33(a)(2), the Regional Board is required to consider the following factors in determining the amount of civil liability to be imposed:
 - a. The nature, circumstances, extent, and gravity of the violation:
Failure to submit an NOI for a permit is a serious violation because it impairs the Regional Board's ability to protect public health and water quality. IMP has been in violation of this requirement for one year and 337 days, from December 31, 2002, when IMP filed a business application with Secretary of State, California Business Portal, until December 3, 2004, when this enforcement order was prepared.
 - b. Violator's ability to pay:
IMP has not provided sufficient information for the Regional Board to determine its ability to pay.
 - c. Prior history of violations:
Since IMP has failed to provide any information pertaining to IMP's operations, the Regional Board does not have a record of other violations, and cannot determine the potential impact of this factor.

d. Degree of culpability:

The Regional Board sent IMP an NNC and an NOV after the facility had been identified as one that may be subject to the requirements of the General Permit. During the facility inspection conducted on November 12, 2003, IMP's representative was informed by a Regional Board inspector that IMP needed to file an NOI. Despite these admonitions, IMP has failed and refused to submit an NOI.

e. Economic benefit or savings resulting from the violation:

Regional Board staff have examined the cost savings from IMP's failure to comply with the State's storm water regulations, and estimated that it is at least \$5,360. The breakdown of this amount is as follows:

1. To prepare a typical SWPPP for an industrial facility = \$1000
2. Annual fees for the year 2002-2003 (12/31/02-6/30/03) = \$700
3. Annual fees for the year 2003-2004 (7/1/03-6/30/04) = \$830
4. Annual fees for the year 2004-2005 (7/1/04-6/30/05) = \$830
5. (\$1000 to implement a SWPPP and Monitoring Plan/year)x(2 years) = \$2000
6. \$5,360 is the amount that IMP saved by not filling an NOI, preparing, and implementing a SWPPP and Monitoring Plan.

f. Other matters as justice may require:

An additional matter to consider includes time spent by staff of the Regional Board in evaluating the incidents of violation and preparing this Complaint and related documents. The Regional Board charges a rate of \$70 per hour for staff cost recovery. With total staff time of approximately 20 hours, staff costs incurred by the Regional Board are estimated to total \$1,400:

$$20 \text{ hours} \times \$70 \text{ per hour} = \$1,400$$

7. After consideration of these factors, the Executive Officer proposes civil liability be imposed on IMP in the amount of \$11,760 (of this amount, \$5,000 represents the minimum mandatory penalty of CWC § 13399.33(a)(1)) for the violation cited above).

PROPOSED CIVIL LIABILITY

PENALTY CATEGORY	CALCULATION	TOTAL
Non-compliance with CWC § 13399.30 by failing to submit an NOI.	CWC § 13399.33(a): Minimum penalty of \$5,000 for failing to submit the NOI to obtain coverage.	\$5,000
Avoided Cost	\$1,000 for SWPPP; \$1000 per year for annual report compliance activities (two year period).	\$3,000
Avoided Annual Permit Fees	\$700 for 2002-2003, \$830 for 2003-2004. \$830 for 2004-2005	\$2,360
Recovery of Staff Costs	\$70/hour x 20 hours	\$1,400
Recommended ACL		\$11,760

8. A hearing concerning this Complaint will be held before the Regional Board or Regional Board Hearing Panel (Hearing Panel) within ninety days after service of this Complaint on IMP. IMP will be notified at least ten days in advance of the date, time and place of the hearing. IMP or IMP's representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board
9. The Regional Board will consider whether to affirm, reject or modify the proposed administrative civil liability or to refer the matter to the Attorney General for recovery of judicial civil liability in a greater amount than assessed herein.
10. In the event that IMP fails to comply with the requirements of this Complaint, the Executive Officer is authorized to refer this matter to the Office of the Attorney General for enforcement
11. IMP may waive its right to a hearing. Should IMP choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver to the Regional Board at 320 West 4th Street, Suite 200, Los Angeles, CA 90013, to be received by the Regional Board by the close of business on January 5, 2005. IMP must submit a check in the amount of \$11,760 (payable to the State Water Resources Control Board-Storm Water Account) with the signed waiver.
12. Regulations of the US Environmental Protection Agency requires public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

If IMP has any questions, please contact Ejigu Solomon at (213) 620-2237 or Alex Alimohammadi at (213) 620-2243.

Date

Jonathan Bishop P.E.
Executive Officer

WAIVER OF THE RIGHT TO A HEARING

By signing below and returning this Waiver, I hereby waive the right of IMP to a hearing before the Regional Board to dispute the allegations and civil liability set forth in Administrative Civil Liability Complaint No. R4-2004-0129 (Complaint) issued by the Regional Board Executive Officer. IMP understands that this Waiver gives up the rights to contest the allegations of the Complaint and the amount of civil liability it imposes.

Enclosed herewith in full payment of the civil liability is a \$11,760 check payable to “State Water Resources Control Board Cleanup and Abatement Account.”

IMP understands that this Waiver gives up the rights to argue against the allegations made by the Executive Officer in this Complaint and imposition of, and the amount of, civil liability imposed. IMP also understands that if an Administrative Civil Liability Order is adopted by the Regional Board, payment in full will be due in thirty days after the date of the adoption of the Order.

I hereby affirm that I am duly authorized to act on behalf of and to bind IMP in the making and giving of this Waiver.

IMP Date:_____

By: _____ (Signed name) _____ (Printed or typed name)

Position: _____